

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HJR 97

Additional Homestead Exemption for First-Time Homestead

Property Owners

**SPONSOR(S):** Finance & Tax Council; Military & Local Affairs Policy Committee; Domino and others

**TIED BILLS:**

**IDEN./SIM. BILLS:**

	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	Military & Local Affairs Policy Committee	14 Y, 1 N, As CS	Noriega	Hoagland
2)	Economic Development & Community Affairs Policy Council	10 Y, 5 N	Noriega	Tinker
3)	Finance & Tax Council	13 Y, 0 N, As CS	Shaw	Langston
4)	Full Appropriations Council on Education & Economic Development	18 Y, 0 N	Fennell	Martin
5)				

### SUMMARY ANALYSIS

This joint resolution proposes an amendment to Article VII, section 6 of the Florida Constitution to provide a new, additional homestead exemption for a homeowner the first time he or she establishes a homestead in Florida in an amount equal to 50 percent of the homestead property's just value on January 1 of the year the homestead is established. The amount of the additional exemption shall not exceed \$250,000, and will be reduced in each succeeding year for five years by the greater of 20 percent of the initial additional exemption or the amount by which the homestead's assessed value is lower than just value because of the Save Our Homes benefit. This additional exemption would be available for properties purchased after January 1, 2010.

The proposed constitutional amendment will be submitted to the electors at the general election in November, 2010 or at an earlier special election if specifically authorized through a law enacted by the Legislature for that purpose. If approved by 60 percent of the voters at the 2010 general election, the proposed amendment will take effect in January 1, 2011, and first apply to assessments in 2011.

The Department of State estimates that the cost of the proposed amendment is \$106,272. This cost is the result of placing the amendment on the ballot and publishing the notices as required by the Florida Constitution.

The Revenue Estimating Conference (REC) has adopted an indeterminate negative fiscal impact because the proposed amendment would require voter approval. However, if the electorate approves the amendment, the statewide negative fiscal impact on school taxes would be \$53.0 million in fiscal year 2011-12, and could increase to \$156.0 million in fiscal year 2015-16. In addition, the statewide negative fiscal impact on non-school taxes would be \$67.0 million in fiscal year 2011-12, and could increase to \$202.0 million in fiscal year 2015-16.

**The joint resolution must be approved by a three-fifths vote of the membership of each house of the Legislature.**

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### General Overview of Ad Valorem Taxation and Assessments

The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts. The amount of tax levied is based on the taxable value of real and tangible personal property as of January 1 of each year and the tax rate (millage rate) applied to such value.<sup>1</sup> Ad valorem property tax revenues result from multiplying the millage rate adopted by counties, municipalities, and school boards, by the taxable value of property within that jurisdiction. The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.<sup>2</sup>

With the exception of the ad valorem tax and other home-rule revenue sources, local governments are dependent on the Legislature for authority to levy any other forms of taxation. The property tax is the largest single tax revenue source for local governments in Florida, with approximately \$31.0 billion levied in fiscal year 2007–08, which represents a 1.87 percent increase from FY 2006-07 and is more than twice the \$15.3 billion collected during FY 2000-01. Ad valorem property tax revenues are also the primary tax revenue source for school districts. Of the \$31.0 billion levied statewide during FY 2007-08, school districts levied an estimated \$13.25 billion in property taxes.<sup>3</sup>

The “taxable value” of real and tangible personal property is the fair market value, or “just value,” of the real and tangible personal property adjusted for any exclusions, differentials, or exemptions allowed by the constitution or the statutes.<sup>4</sup> The Florida Constitution strictly limits the Legislature’s authority to provide exemptions or adjustments to fair market value.<sup>5</sup>

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<sup>1</sup> Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. The terms “land,” “real estate,” “realty,” and “real property” may be used interchangeably. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in s. 1(b), Art. VII of the State Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

<sup>2</sup> Article VII, s. 1(a), Florida Constitution.

<sup>3</sup> *Florida Tax Handbook*, 2008.

<sup>4</sup> Sections 192.001(2) and (16), F.S., define the terms “assessed value” and “taxable value.” “Assessed value” is generally synonymous with “just value” unless a constitutional exception such as Save Our Homes applies to reduce the assessed value of the property. “Taxable value” is the assessed value minus any applicable exemptions such as the \$25,000 homestead exemption. “Just value” is the estimated fair market value of the property.

### Constitutional Homestead Preferences Prior to January 29, 2008

Prior to January 29, 2008, Article VII (Finance and Taxation) of the Florida Constitution provided the following general homestead property tax preferences:

- An exemption equal to \$25,000 of the property's value applicable to all taxes;<sup>6</sup> and
- A limit on annual assessment increases equal to the lower of the change in the Consumer Price Index (CPI) or 3 percent. This is the popularly named "Save Our Homes" amendment to the State Constitution, which was approved by the voters in 1992.<sup>7</sup>

Also, certain taxpayers are entitled to receive additional exemptions for their homesteads. These include low-income elderly,<sup>8</sup> disabled veterans,<sup>9</sup> widows and widowers, and persons who are blind or totally and permanently disabled.<sup>10</sup>

### January 29, 2008, Constitutional Amendment

On January 29, 2008, a constitutional amendment approved by Florida's voters made the following two homestead-related changes to Article VII of the Florida Constitution:

- Allowed an additional homestead exemption of up to \$25,000 for assessed value between \$50,000 and \$75,000, which does not apply to school district tax bases;<sup>11</sup> and
- Allowed homestead property owners relocating to a new homestead within the state the ability to transfer up to \$500,000 of value protected from taxation due to the Save Our Homes assessment limitation. This concept is also known as "portability."<sup>12</sup>

### Proposed Changes

This joint resolution proposes an amendment to Article VII, section 6 of the Florida Constitution to provide an additional homestead exemption for a homeowner the first time they establish a homestead in Florida. The amount of the exemption is equal to 50 percent of the homestead property's just value on January 1 of the year the homestead is established. The amount of the exemption shall not exceed \$250,000, and this amount is reduced in each succeeding year for five years by the greater of:

- 20 percent of the initial additional exemption; or
- The difference between just value and assessed value as determined under Article VII, section 4(d) (this is the assessment amount protected from taxation by Save Our Homes).

This additional exemption would be available for properties purchased after January 1, 2010. However, this additional exemption would not be available to homeowners in the sixth year and subsequent years after the exemption is first received.

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<sup>5</sup> Article VII, s. 4, Florida Constitution.

<sup>6</sup> Article VII, s. 6, Florida Constitution.

<sup>7</sup> Article VII, s. 4(d), Florida Constitution.

<sup>8</sup> Article VII, s. 6(d), Florida Constitution.

<sup>9</sup> Article VII, s. 6(e), Florida Constitution.

<sup>10</sup> Article VII, s. 3(b), Florida Constitution.

<sup>11</sup> Article VII, s. 6, Florida Constitution.

<sup>12</sup> Article VII, s. 4(d), Florida Constitution.

Also, this additional exemption would not be available if any property owner has previously owned homestead property in Florida, and no more than one additional exemption would be allowed per homesteaded property.

The proposed constitutional amendment will be submitted to the electors at the general election in November, 2010 or at an earlier special election if specifically authorized through a law enacted by the Legislature for that purpose. If approved by 60 percent of the voters at the 2010 general election, the proposed amendment will take effect on January 1, 2011, and first apply to assessments in 2011 because January 1 is the assessment date for property taxes.<sup>13</sup> Additionally, the proposed amendment specifically provides that the exemption will be available for homes purchased in 2010 and thereafter.

**B. SECTION DIRECTORY:**

Not applicable to a joint resolution.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

The joint resolution will not have a direct effect on state government revenues.

2. Expenditures:

The state constitution requires publication of a proposed amendment or revision to the constitution in one newspaper of general circulation in each county in which a newspaper is published, once in the tenth week and once in the sixth week immediately preceding the week in which the election is held.<sup>14</sup>

Based on the 2008 election costs to advertise a proposed constitutional amendment, the Department of State, Division of Elections, estimates that the total non-recurring cost to advertise the proposed amendment is \$106,272. This cost is determined by multiplying the total number of words in the proposed amendment (approximately 1,155) by the per word cost of \$92.01.<sup>15</sup> The Department of State notes that there is no appropriation associated with the proposed joint resolution at this time.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

Impact on School Taxes

The Revenue Estimating Conference (REC) has adopted an indeterminate negative fiscal impact because the proposed amendment would require voter approval. However, if the electorate approves the amendment, the statewide negative fiscal impact on school taxes would be \$53.0 million in FY 2011-12.

Beyond FY 2011-12, the REC has determined that the proposed amendment would have the following statewide negative fiscal impact on school taxes:

- \$100.0 million in FY 2012-13;

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<sup>13</sup> Article VII, s. 4, Florida Constitution.

<sup>14</sup> Article XI, sec. 5(d), Florida Constitution.

<sup>15</sup> Based on information and methodology received from staff of the Department of State.

- \$133.0 million in FY 2013-14;
- \$149.0 million in FY 2014-15; and
- \$156.0 million in FY 2015-16.

#### Impact on Non-School Taxes

According to the REC, if the electorate approves the proposed amendment, the statewide negative fiscal impact on non-school taxes would be \$67.0 million in FY 2011-12.

Beyond FY 2011-12, the REC has estimated the following statewide negative fiscal impact on non-school taxes:

- \$129.0 million in FY 2012-13;
- \$172.0 million in FY 2013-14;
- \$193.0 million in FY 2014-15; and
- \$202.0 million in FY 2015-16.

These reductions could result in lower expenditures and/or an increase in millage rates (in those jurisdictions where that capacity exists) to maintain current levels of property tax revenues.

#### 2. Expenditures:

Property Appraisers may incur additional costs to implement the provisions of the joint resolution.

#### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Individuals who are first-time homeowners may experience lower taxes. Owners of other properties may experience higher taxes if local governments choose to adjust their millage rates to account for the tax base loss.

#### D. FISCAL COMMENTS:

Public school funding is statutorily tied to property taxes through the required local effort (RLE) – the amount of property taxes that a school district must levy in order to participate in the Florida Education Finance Program (FEFP). The provisions of the joint resolution will reduce the property tax base that is available for RLE.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

The mandates provisions of Article VII, section 18 of the Florida Constitution do not apply to House Joint Resolutions.

##### 2. Other:

Article XI, section 1 of the Florida Constitution authorizes the Legislature to propose amendments to the State Constitution by joint resolution approved by three-fifths of the membership of each house. The amendment must be placed before the electorate at the next general election held after the proposal has been filed with the Secretary of State's office or at a special election held for that purpose.

Article XI, section 5(e) of the Florida Constitution requires 60 percent voter approval for a constitutional amendment to pass.

**B. RULE-MAKING AUTHORITY:**

The joint resolution would not require any agency to adopt administrative rules; however, it may be necessary for the Legislature to authorize rulemaking by the Department of Revenue in future implementing legislation.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

On March 11, 2009, the Military & Local Affairs Policy Committee proposed a committee substitute for HJR 97. This proposed committee substitute was reported favorably with no additional amendments.

This analysis reflects the committee substitute adopted by the Military & Local Affairs Policy Committee.

On April 7, 2009, the Finance & Tax Council adopted one amendment which provided an implementation schedule. The schedule changed the effective date of the proposed amendment from January 4, 2011 to January 1, 2011 so the proposed amendment would apply to property tax assessments for 2011. Additionally the schedule provides that the proposed exemption would be available to homes purchased in 2010.